

EXHIBIT 1

1
2 IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

3 -----x
MARVEL CHARACTERS, INC.,

4
5 Plaintiff and
6 Counterclaim Defendant,
vs.

7 LAWRENCE D. LIEBER,

Case Nos.
1:21-cv-7955-LAK
1:21-cv-7957-LAK
1:21-cv-7959-LAK

8 Defendant and
9 Counter-claimant.

-----x
MARVEL CHARACTERS, INC.,

10
11 Plaintiff and
12 Counterclaim Defendant,
vs.

13 KEITH A. DETTWILER, in his
14 capacity as Executor of the
Estate of Donald L. Heck,

15 Defendant and
Counter-claimant.

-----x
16 MARVEL CHARACTERS, INC.,
17 Plaintiff and
18 Counterclaim Defendant,

vs.

19 PATRICK S. DITKO, in his
20 capacity as Administrator of the
Estate of Stephen J. Ditko,

21 Defendant and
22 Counter-claimant.

-----x

23 VIDEOTAPED DEPOSITION OF PATRICK S. DITKO
New York, New York
24 Tuesday, February 14, 2023
9:52 a.m.

25 JOB NO. 5697050

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February 14, 2023

9

9:52 a.m.

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11

Videotaped Deposition of

12

PATRICK S. DITKO, held at the offices

13

of O'Melveny & Myers LLP, Seven Times

14

Square, New York, New York, pursuant to

15

notice, before Jennifer Ocampo-Guzman,

16

a Certified Realtime Shorthand Reporter

17

and Notary Public of the State of New

18

York.

19

20

21

22

23

24

25

1

2

and that's how it was.

3

Q. Meaning that you never discussed

4

your brother's work with him?

5

A. Right, correct.

6

Q. Did he ever tell you why he had a

7

rule that what happens in New York stays in

8

New York?

9

A. Because he was that private.

10

Q. And did that rule that he applied

11

to your relationship apply to his

12

relationship with the balance of your family?

13

A. Well, he told that to my mother, my

14

mother relayed it to me, and we -- and then

15

it got through all the kids and everything

16

else; so it was the golden rule.

17

Q. So it applied to your children as

18

well?

19

A. Yes. They were, you know, real

20

young then.

21

Q. And the same rule applied

22

throughout the duration of your brother's

23

life?

24

MR. TOBEROFF: Objection, assumes

25

facts. Objection as to form.

1

2

3

4

5

getting confusing. But the questions are really not fair, because I don't have any knowledge, and I already said that.

6

7

MR. TOBEROFF: And she's implying that there is no basis, when you say no.

8

9

MS. LENS: No, I'm asking questions, as I'm entitled to do.

10

11

MR. TOBEROFF: I know what you're doing and it's improper.

12

13

14

Q. You haven't seen any checks from Marvel to Steve Ditko from the 1960s, have you?

15

16

MR. TOBEROFF: Objection as to form, lacks foundation.

17

A. No.

18

19

20

Q. And you haven't seen the backs of any checks from Marvel to Steve Ditko from the 1960s, have you?

21

22

MR. TOBEROFF: Objection as to form, lacks foundation.

23

A. No.

24

25

Q. And do you have any evidence that Steve Ditko wasn't paid for the pages that he

1

2 pencilled or inked for Marvel?

3 A. No.

4 Q. Are you able to proffer any
5 testimony that Steve Ditko wasn't subject to
6 Stanley's editorial supervision?

7 MR. TOBEROFF: Object. Do you
8 understand her question?

9 THE WITNESS: No, I don't.

10 MR. TOBEROFF: Do you understand
11 her questions?

12 THE WITNESS: No I don't.

13 MR. TOBEROFF: Do not answer
14 questions that you don't understand.
15 Okay?

16 And again, if you don't have a
17 basis because you don't have personal
18 knowledge, I'd like you to specifically
19 state that, sir. Is that understood?

20 THE WITNESS: I'm trying.

21 MR. TOBEROFF: I would rather --
22 it's not a yes or no question, if you
23 need to state where your answer is no
24 because you don't have knowledge. And
25 as far as evidence is concerned, you may

1

2

supervision?

3

A. I have no knowledge.

4

Q. Okay. Thank you.

5

Do you think you're qualified,

6

Mr. Ditko, to testify on whether Steve

7

Ditko's work for Marvel from 1962 to 1966 was

8

done on a work made for hire basis?

9

A. I have no idea, no knowledge.

10

Q. Do you know what it means to, for

11

work to have been made on a work for hire

12

basis?

13

A. No.

14

Q. Did you ever discuss with your

15

brother Steve whether his work for Marvel was

16

done on a work made for hire basis?

17

A. No.

18

Q. Are you aware that your brother

19

Steve and Jack Kirby overlapped at Marvel for

20

several years?

21

MR. TOBEROFF: Object as to form.

22

Lacks foundation.

23

You could answer.

24

A. No.

25

THE VIDEOGRAPHER: If I could just

1

2

Q. So you found what's been marked as Exhibit 100, which is in front of you in an actual book in your brother's apartment?

3

4

5

MR. TOBEROFF: Objection as to

6

form.

7

8

A. I don't where it was. It was in another file other than his reference file.

9

He had other files also.

10

11

Q. Did he have a file relating to his work with Marvel?

12

MR. TOBEROFF: Objection as to

13

form.

14

A. No, not really.

15

16

Q. Did you find any agreement between he and Marvel?

17

MR. TOBEROFF: Objection as to

18

form.

19

A. No.

20

21

Q. Did you found any agreements between Steve Ditko and DC Comics?

22

MR. TOBEROFF: Objection as to

23

form.

24

25

A. There may have been something there, but I'm not -- I don't really recall.

1

2 but -- I would say yes.

3

Q. Yes, you understood that your

4

brother's estate was worth over a million,

5

correct?

6

A. Correct.

7

Q. And does that also help refresh

8

your recollection that each third of the

9

family -- as you said, there's three

10

families -- had received hundreds of

11

thousands of dollars of Steve Ditko's estate

12

at the time of his passing; is that correct?

13

MR. TOBEROFF: Objection as to

14

form, assumes facts.

15

A. I don't think -- no, that's not

16

correct.

17

Q. The monies that you received from

18

your brother's estate, do you -- have you

19

passed any of those monies along to your son

20

Mark?

21

A. Only expenses from New York, from

22

Johnstown to New York, because he -- yes.

23

Q. Other than that, has he received

24

any monies from the estate?

25

A. Mark?

C E R T I F I C A T E

STATE OF NEW YORK)

: ss.


COUNTY OF NEW YORK)

I, Jennifer Ocampo-Guzman, a
Certified Realtime Shorthand Reporter and
Notary Public within and for the State of New
York, do hereby certify:

That PATRICK S. DITKO, the
witness whose deposition is hereinbefore set
forth, was duly sworn, and that such
deposition is a true record of the testimony
given by the witness.

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no
way interested in the outcome of this
matter.

IN WITNESS WHEREOF, I have
hereunto set my hand this 1st day of
March, 2023.

A handwritten signature in black ink, appearing to read "Jennifer Ocampo-Guzman", is written over a line of text that includes a percentage symbol and the number 5137.

JENNIFER OCAMPO-GUZMAN, CRR, CLR

----- I N D E X -----

WITNESS	EXAMINATION BY	PAGE
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PATRICK S. DITKO	MS. LENS	6
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	MR. TOBEROFF	201
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----- EXHIBITS -----

EXHIBITS	FOR I.D.
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Exhibit 122, Complaint for	94
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Declaratory Relief	
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Exhibit 123, Defendant Ditko's	112
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Supplemental Responses and	
Objections to Plaintiff's Third Set	
of Interrogatories to Patrick S	
Ditko	

Exhibit 124, Article	137
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entitled, "Ditko family working to	
share Johnstown comics legend's	
story, promote his legacy."	

Exhibit 125, Affidavit, Bates Nos.	150
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2021MARVEL-0070642 through	
2021MARVEL-0070643	

Exhibit 126, Photocopies of	197
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handwritten letters	
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MARKED FOR RULING

PAGE	LINE
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26	19
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